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02 OCT 2006

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| In re Application of | : | |
| WASCHKIES, Eckhard | : | |
| Application No.: 10/540,210 | : | DECISION ON |
| PCT No.: PCT/EP03/14094 | : | |
| Int. Filing Date: 11 December 2003 | : | REQUEST |
| Priority Date: 18 December 2002 | : | |
| Attorney Docket No.: 1033033-000028 | : | UNDER 37 CFR 1.43 |
| For: METHOD FOR EVALUATING A WELD | : | |
| JOINT FORMED DURING A WELDING | : | |
| PROCESS | : | |

This decision is in response to applicant's request for status under 37 CFR 1.43.

BACKGROUND

On 11 December 2003, applicants filed international application PCT/EP03/14094, which claimed a priority date of 18 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 01 July 2004. The deadline for entry into the national stage in the United States was 20 June 2005 (18 June 2005 was a Saturday).

On 18 June 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 26 January 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), an English translation, the surcharge for late filing of the filing fee, search fee, exam fee or oath or declaration and the processing for late filing of the translation were required.

On 26 May 2006, applicants submitted, *inter alia*, this request for status under 37 CFR 1.43.

On 15 August 2006, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 26 May 2006.

DISCUSSION

Under 35 U.S.C. 117, legal representatives of deceased inventors or those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 26 May 2006 submission indicates that Eckhard Waschkie is legally incapacitated. Under 37 CFR 1.497(b), the oath or declaration must identify the person making the oath

and that they are the legal representative. See 35 U.S.C. 117. The declaration fails to comply as it does not list the legal representative by at least one given name. See MPEP 605.04(b) and 35 U.S.C. 117. Applicant has not indicated that "B." is the entire given name of the legal representative.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.43 is **REFUSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 15 August 2006 is **VACATED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.43 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.43."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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